

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

A.P., et al	:	CIVIL ACTION
	:	
v.	:	
	:	
THE UNITED STATES OF AMERICA	:	NO. 10-cv-01253
	:	

**MEMORANDUM & ORDER**

Ms. Rasheena Phinisee, the minor plaintiff's mother, has filed a "Motion for Judicial Disqualification." Doc. No. 151.<sup>1</sup> In the motion, Ms. Phinisee claims that because I worked in the criminal division of the U.S. Attorney's office for the Eastern District of Pennsylvania until 2014, before becoming a Magistrate Judge, I should be disqualified, since the same U.S. Attorney's Office represented the defendant in this case. The case was handled by the U.S. Attorney's civil division. Since I did not appear in the case, did not participate in the case, did not supervise the case, and had no knowledge of the case while employed at the U.S. Attorney's office, there is no basis for disqualification. Ms. Phinisee's argument is meritless.

Ms. Phinisee also claims that there were *ex parte* communications between parties and the court. She does not explain what or when those communications were. I am not aware of any such communications. There is no basis for disqualification. Ms. Phinisee's position is meritless.

Finally, Ms. Phinisee claims that she never consented to a Magistrate Judge's jurisdiction. This argument has been rejected by the District Judge who referred the

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<sup>1</sup> The motion is 7-pages long, and attaches another 42 pages of exhibits.

matter under 28 U.S.C. § 636(c). Doc. Nos. 158 (Memorandum) and 159 (Order). For the reasons explained by the District Judge, Ms. Phinisee's argument is meritless.

Ms. Phinisee also has filed a "Motion for Interim Fee Award." Doc. No. 157. In the motion, she claims she is entitled to an award of attorney's fees because the U.S. Department of Justice and U.S. Department of Health and Human Services have not supplied her with documents requested by Ms. Phinisee in May of 2016 under the Freedom of Information Act (FOIA). *Id.* Ms. Phinisee cannot seek relief in this lawsuit. If she has a remedy under FOIA, she must pursue it by exhausting her administrative remedies and then pursuing a separate civil action in district court. 5 USCA § 552(a)(1), (4)(B). In this Circuit, pro-se litigants are not entitled to attorney's fees under FOIA. *Cunningham v. Federal Bureau of Investigation*, 664 F.2d 383, 388 (3d Cir. 1981) ("non-lawyer pro se litigants may not be awarded attorney fees under the Freedom of Information Act for the services they provide to themselves."). Ms. Phinisee's motion is meritless.

For the reasons explained above, and for good cause shown, it is on this 15th day of January, 2019,

**ORDERED**

that Ms. Phinisee's "Motion for Judicial Disqualification" (Doc. No. 151), is **DENIED**. It is further **ORDERED** that Ms. Phinisee's "Motion for Interim Fee Award" (Doc. No. 157) is **DENIED**.

The Clerk of Court will ensure that this Order is mailed to Ms. Phinisee's address of record.

*s/Richard A. Lloret*  
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**RICHARD A. LLORET**  
**UNITED STATES MAGISTRATE JUDGE**